IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.2744 of 2001
& WAMP No.592 of 2003

P.K.Kannan ... Appellant/Petitioner

Vs.

1.The Commissioner and Secretary,
Public works Department,
Fort St. George, Chennai-9.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Executive Engineer,
Public Works Department,
WRO Coovam River Section,
Chepauk, Chennai-5.

4.The Assistant Executive Engineer,
Public Works Department,
WRP Coovam River Section,
Chepauk, Chennai-5.

5.The Tahsildar,
office of the Tahsildar,
Ambattur, Chennai-50. .. Respondents

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Writ appeal filed under Clause 15 of the Letters Patent against the order dated 10.09.2001 made in W.P.No.15121 of 2001 presented to this Court under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to restore the petitioner's land and site out to 0.25 hectares in S.No.380/3 in 80, Padikuppam Village.

For Appellant : Mr.A.R.L.Sundaresan, SC., for
Mr.R.Ramesh
For respondents : Mr.K.Elango
Special Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order dated 10.09.2001 made in W.P.No.15121 of 2001, in and by which, the learned single Judge, after finding that the matter in issue cannot be gone into by writ Court and by giving liberty to the petitioner to approach the competent Civil Court, if he so desires, has dismissed the writ petition.

2. Heard the learned counsel appearing for the appellants as well as the respondents.

3. According to the appellant/petitioner, patta has been issued by the respondents in respect of 0.25 hectares in S.No.380/3 in 80, Padikuppam Village, Ambattur Taluk, Chennai. The said claim was stoutly denied by the respondents before the learned single Judge and before us. The Tahsildar, Ambattur, has filed a counter affidavit stating that the land in question is classified as Coovam River poramboke situated in S.No.380, padi Village, Ambattur Taluk, and the total extent in the survey number is 2.06.5 hectares and there is no sub division in the said land as alleged by the petitioner and further asserted that as per the revenue records, they have not issued any patta to the petitioner.

4. In view of the claim of the appellant/petitioner as well as the stand taken by the Government Officers, particularly the Tahsildar, Ambattur, as rightly observed by the learned single Judge, the issue cannot be gone into by this Court by exercising jurisdiction under Article 226 of the Constitution of India. It is true that even before us, the appellant has filed the additional typed set of papers including the copy of the patta as well as patta pass book and house site certificate. At the same time, we cannot ignore the stand taken by the Tahsildar, Ambattur, in the form of an affidavit. In such circumstances, the only remedy open to the appellant/petitioner is to approach the Civil Court to vindicate his grievance. Similar direction was issued by the learned single Judge while dismissing the writ petition. We are in entire agreement with the same. Consequently, the writ appeal fails and the same is dismissed. No costs. Consequently, WAMP no.592 of 2003 is also dismissed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Commissioner and Secretary,
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2.The District Collector,
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Ambattur, Chennai-50.

1 cc To The Government Pleader, SR.57579.

W.A.No.2744 of 2001

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